

Protection of Children against Sexual Abuse in the Circle of Trust: Legal Frameworks (Lanzarote Convention Monitoring Questionnaire)

Fields marked with * are mandatory.

Introduction

1. The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (hereinafter “the Lanzarote Convention” or “the Convention”), which entered into force in July 2010, requires criminalisation of all forms of child sexual abuse. It sets out that states in Europe and beyond shall adopt specific legislation and take measures to prevent sexual violence, to protect child victims and to prosecute perpetrators.

2. The Committee of the Parties to the Convention (also known as the “Lanzarote Committee”), established to monitor whether Parties effectively implement the Convention (Article 1 § 2), decided that:

“1. The monitoring of the implementation of the Convention in the Parties shall be based on a procedure divided by rounds, each round concerning a theme decided by the Lanzarote Committee or any other approach deemed appropriate by the Lanzarote Committee within the scope of the Convention.

2. The Lanzarote Committee will determine the length of each monitoring round in the light of the themes selected and the provisions of the Convention to be monitored.

3. The monitoring round will be initiated by addressing a questionnaire on the implementation of the relevant provisions of the Convention with respect to the selected theme. The Parties shall respond to the questionnaire within the time-limit set by the Lanzarote Committee.”[1]

The notion of the circle of trust

3. In January 2018, the Lanzarote Committee concluded its first monitoring round “Protection of children against sexual abuse in the circle of trust”. The notion of “circle of trust” includes members of the extended family, persons having care-taking functions or exercising control over the child, and any other persons with whom the child has relations, including his/her peers.[2]

The previous and current monitoring rounds on the circle of trust

4. The two implementation reports adopted as a result of the first monitoring round evaluated the frameworks and strategies put in place by the 26 States Parties to the Lanzarote Convention which had ratified it by the time the monitoring round was launched[3]. Since then, the Convention has been ratified by 22 other Parties,[4] and numerous changes have taken place in the subject area due to the development of international standards and national reforms. Furthermore, a child’s circle of trust remains the environment

where the vast majority of sexual abuse occurs.[5] The Committee therefore decided to come back to the subject matter of the first monitoring round in 2023, to both take stock of the situation in the 22 Parties that had not been examined in the first round and to evaluate the follow-up given to the Committee's recommendations by the 26 Parties that had.

5. All of the current 48 Parties will be monitored at the same time to create a momentum around specific aspects of the monitoring theme. To ensure a more accurate reflection of the situation in the Parties and a speedier publication of intermediary results, the monitoring round will be divided into several parts and conducted on the basis of information submitted by the Parties and other stakeholders in response to questionnaires specific for each part.

Involvement of civil society and other relevant stakeholders in the monitoring round

6. In accordance with paragraph 4 of Rule 26 of the Lanzarote Committee's Rules of Procedure, the Secretariat shall seek the views of the representatives of civil society and any other bodies involved in preventing and combating sexual exploitation and sexual abuse of children on the implementation of the Convention by Parties, in particular by asking them to comment on the replies to this questionnaire or by any other means (e.g. by offering the observers and participants in the Lanzarote Committee to submit any relevant information they may have with regard to any Party to the Convention by replying directly to some or all of the questions of this questionnaire). These comments and replies will be transmitted by the Secretariat to the Party(ies) concerned and made public.

Type of questions and elements to be borne in mind when replying

7. Each of the questionnaires of this monitoring round will contain questions derived from the Committee's first monitoring round recommendations and findings, as well as a few new questions based on the Committee's adopted texts and international standards that have emerged in the meantime, including the case-law of the European Court of Human Rights, to gather information for capacity-building purposes. The first part of the monitoring round will assess the legal framework and related procedures with respect to sexual abuse of children in the circle of trust ("Legal frameworks").

8. This specific first questionnaire was adopted by the Lanzarote Committee on 2 June 2023. It is recalled that, in accordance with Rule 26 of the Lanzarote Committee's Rules of Procedure:

"...2. The Secretariat shall address such questionnaires to the Parties through the member in the Lanzarote Committee representing the Party to be monitored, who will act as "contact person".

3. Parties shall submit their replies in one of the official languages of the Council of Europe to the secretariat within the time limit set by the Lanzarote Committee. The replies shall be detailed, answer all questions and contain all relevant reference texts. The replies shall be made public.

5. The Secretariat may request additional information if it appears that the replies are not exhaustive or unclear. Where warranted, with the consent of the Party(ies) concerned and within the limits of budgetary appropriations, the Bureau of the Lanzarote Committee may decide to carry out a visit in the Party(ies) concerned to clarify the situation."

9. In addition, Parties are kindly requested to:

- answer the questions with regard to central, regional and local levels to the extent possible. Federal States may, in respect of their sovereign entities, answer the questions in a summarised way;
- provide, whenever questions/answers refer to it, the relevant text (or a summary) of legislation or other regulations in English or French;

- answer the questions from a gender equality perspective, i.e. specifying, where relevant, whether and how measures for victims and/or offenders take into account gender-specific requirements.

10. The term “national legal framework” used in the questionnaire includes not only laws but also all forms of regulations (decrees, resolutions, administrative directions, instructions, and any other decisions creating legal consequences for more than one individual) and higher courts’ directive rulings.

11. The questions asked concern the legal frameworks pertaining to both online and offline forms of activity. Should your national legal framework distinguish between them, please provide details.

12. As indicated above, some of the questions are included for capacity-building purposes. Therefore, nothing in the wording of these questions should be taken as an indication of a preferred state of affairs or course of action.

13. The questionnaire uses a colour-coded system to help you differentiate questions based on the Lanzarote Committee’s 1st monitoring report’s “invite” recommendations (in blue) and “urge”/ “consider” recommendations (in red). The questions based on the European Court of Human Rights’ case law and the Committee’s adopted texts are coloured red. The questions included for capacity-building purposes are coloured blue.

14. Some of the questions are addressed only to specific Parties found to be not in compliance with a particular requirement of the Convention in the first monitoring round, or to those Parties and to the 22 Parties which had not been evaluated during the first monitoring round. All other questions are meant to be replied to by all Parties.

[1] Rule 24 of the Lanzarote Committee’s [Rules of Procedure](#)

[2] See [1st Implementation Report “Protection of Children against Sexual Abuse in the Circle of Trust: The Framework”](#), p. 12. Examples of the different categories of persons may be found in paragraphs 123-125 of the [Explanatory Report to the Lanzarote Convention](#)

[3] Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Finland, France, Greece, Iceland, Italy, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, North Macedonia, Portugal, Romania, San Marino, Serbia, Spain, Türkiye and Ukraine

[4] Andorra, Armenia, Azerbaijan, Cyprus, Czech Republic, Estonia, Georgia, Germany, Hungary, Ireland, Latvia, Liechtenstein, Monaco, Norway, Poland, the Russian Federation, Slovakia, Slovenia, Sweden, Switzerland, Tunisia, United Kingdom

[5] See the [Explanatory Report to the Lanzarote Convention](#), paras. 48 and 123-125

IDENTIFICATION OF THE RESPONDER

* Name of the Party responding or concerned by your response

Republic of Croatia

* Name of the contact person/coordinator

* Email address of the contact person/coordinator

KEY NOTIONS Question 1. Does your national legal framework:

a. [have a reference to “abuse of a recognised position of trust, authority or influence” as a separate sexual offence against children?](#)^[6] If yes, please provide a copy of the relevant provision(s).

[6] 1st Implementation Report “Protection of Children against Sexual Abuse in the Circle of Trust: The Framework” adopted by the Lanzarote Committee on 4 December 15, Recommendation 3.

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (1.a Yes)

Yes. Criminal Code has such a reference.

The age of consent for entering into sexual relations in Republic of Croatia is fifteen years. Despite this age limit, when it comes to a child victim of sexual offences, two age groups of children who appear as victims of sexual misconduct have been stipulated by the Criminal Code. This is due to the fact that the age of sexual consent (fifteen years) is different from the age of majority (eighteen years). Thus, the Criminal Code contains two offences; sexual abuse of a child under the age of fifteen (Article 158) and sexual abuse of a child over the age of fifteen (Article 159).

Children over the age of fifteen are free to engage consensual sexual intercourse. Despite that, children over the age of fifteen can not give valid consent to sexual intercourse with persons enumerated in Article 159 of the Criminal Code.

The Criminal Code of the Republic of Croatia in the context of the reference to abuse by trusted persons prescribes the independent criminal offense of sexual abuse of a child over the age of 15 in Article 159. Article 159 Paragraph 1 prescribes the categories of persons, which, if they engage in sexual intercourse or sexual acts equated to it with a child who has reached the age of 15, are criminally liable. These are persons who enjoy the special trust of the child, but are not closely related to him (for example, a teacher, educator, guardian, foster parent or other person entrusted with the care and upbringing of the child by the decision of the competent body, priest, doctor, coach).

Criminal Code in Article 159 paragraph 1- Sexual abuse of a child above the age of fifteen prescribes that:
(1) Whoever engages in sexual intercourse or performs a sexual act equated with sexual intercourse with a child over the age of fifteen with whose upbringing, education, minding, spiritual guidance or care he/she has been entrusted, or whoever induces a child over the age of fifteen with whose upbringing, education, minding, spiritual guidance or care he/she has been entrusted to engage in sexual intercourse or perform a sexual act equated with sexual intercourse with a third party or to perform upon himself/herself a sexual act equated with sexual intercourse shall be sentenced to imprisonment for a term of between one and eight years.

In paragraph 2 of Article 159, the circle of perpetrators includes persons who are related to a child over the age of 15 through a relationship of adoption, or who are the stepfather or stepmother of such a child or his

blood relative.

Criminal Code in Article 159 paragraph 2- Sexual abuse of a child above the age of fifteen prescribes that:

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on a lineal relative by blood or by adoption, a step-father or step-mother or common law spouse or life partner or informal life partner of child's parent who engages in sexual intercourse or performs a sexual act equated with sexual intercourse with a child over the age of fifteen or who induces a child over the age of fifteen to engage in sexual intercourse or perform a sexual act equated with sexual intercourse with a third party or to perform upon himself/herself a sexual act equated with sexual intercourse.

Regarding non consensual sexual intercourse and equate acts Criminal Code in Article 158 paragraph 5 (Sexual abuse of a child under the age of fifteen) prescribes that whoever engages in sexual intercourse or performs a sexual act equated with sexual intercourse with a child under the age of fifteen by means of the abuse of authority or of a situation of hardship or dependence of the child on the perpetrator, shall be sentenced to imprisonment for a term of between three and fifteen years. Article 158 Paragraph 6 of the criminal Code prescribes that whoever under the conditions referred to in paragraph 5 of this Article commits a lewd act against a child under the age of fifteen shall be sentenced to imprisonment for a term of between one and ten years.

In addition Article 166 paragraphs 1 and 2 prescribe that if a criminal offence referred to in Article 158 paragraphs 1 and 5 is committed by a close person or towards especially vulnerable child, it shall represent serious criminal offence of child sexual abuse and exploitation and it shall be punishable by a more severe sentence.

Regarding children over the age of fifteen, non-consensual sexual intercourse or sexual act equated with sexual intercourse committed by a close person or against person especially vulnerable due to his/her age, illness, addiction, pregnancy, disability or physical or mental disability is criminalised by Article 154 of Criminal Code (Serious Criminal Offences against Sexual Freedom) in relation to Article 153 of the Criminal Code.

Here you can upload any file(s) in support of your answer

b. **[for 22 Parties + Belgium and Luxembourg]** establish a separate offence of sexual abuse of children by someone in a recognised position of trust, authority or influence instead of considering the fact that the perpetrator holds that position just as an “aggravating circumstance”?^[7] If yes, please indicate the specific legal provision.

[7] *Ibid.*, Recommendation 2

- Yes
 No

Here you can upload any file(s) in support of your answer

c. list specific categories of adults in contact with children automatically qualifying as holding this position?^[8]

[8] *Ibid.*, Recommendation 4. Examples: members of the extended family (including new partners), persons having caretaking functions (including trainers of any kind) or exercising control over the child professionally or on a voluntary basis (including persons who look after children in their leisure-time) and any other person trusted by the child (including other children).

- Yes
 No

If appropriate, please provide more information (1.c No)

Please see the answer to the question 1 a.

Here you can upload any file(s) in support of your answer

d. **define the notion of “circle of trust”**?^[9]

[9] *Ibid*

- Yes
 No

If appropriate, please provide more information (1.d No)

Croatian Criminal Code doesn't define the notion „circle of trust“, but it prescribes as mentioned in answers to questions 1. a i c.

Here you can upload any file(s) in support of your answer

VICTIMS' AGE Question 2. Does your national legal framework:

a. **[for 22 Parties + Italy, Portugal, San Marino, and Türkiye]** provide that every child up to 18 years of age is protected against the criminal offence of sexual abuse by someone in a recognised position of trust, authority or influence?^[10]Please refer to the specific legal provisions.

[10] *Ibid.*, Recommendation 6

- Yes
 No

Here you can upload any file(s) in support of your answer

b. **[for 22 Parties + North Macedonia and Ukraine]** indicate that the child's legal age for engaging in sexual activities is not relevant in the case of child sexual abuse by someone in a recognised position of trust, authority or influence?^[1] Please provide details.

[1] *Ibid.*, Recommendation 5

- Yes
 No

Here you can upload any file(s) in support of your answer

SCOPE OF OFFENCE Question 3. Does your national legal framework criminalise sexual abuse of children:

a. **where the offender abuses a recognised position of influence?** [12] Please refer to the specific legal provisions.

[12] *Ibid*, Recommendation 1

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (3.a Yes)

Croatian Criminal Code does criminalise sexual abuse of children where the offender abuses a recognised position of influence in these Articles:

Article 159 (Sexual abuse of a child above the age of fifteen) criminalises in paragraph 1 engaging in sexual intercourse or performing a sexual act equated with sexual intercourse with a child over the age of fifteen with whose upbringing, education, minding, spiritual guidance or care the perpetrator has been entrusted, or inducing a child over the age of fifteen with whose upbringing, education, minding, spiritual guidance or care the perpetrator has been entrusted to engage in sexual intercourse or perform a sexual act equated with sexual intercourse with a third party or to perform upon himself/herself a sexual act equated with sexual intercourse.

Paragraph 2 of Article 159, criminalises engaging in sexual intercourse or performing a sexual act equated with sexual intercourse with a child over the age of fifteen committed by lineal relative by blood or by adoption, a step-father or step-mother or common law spouse or life partner or informal life partner of child's parent.

Please note that Article 159 deals with consensual sexual relations between a child over the age of fifteen and persons from the legal description of this criminal offence.

Regarding non consensual sexual intercourse and equated acts against children under the age of fifteen, the Criminal Code in Article 158 paragraph 5 (Sexual abuse of a child under the age of fifteen) prescribes that whoever engages in sexual intercourse or performs a sexual act equated with sexual intercourse with a child under the age of fifteen by means of the abuse of authority or of a situation of hardship or dependence of the child on the perpetrator, shall be sentenced to imprisonment for a term of between three and fifteen years. Article 158 Paragraph 6 of the criminal Code prescribes that whoever under the conditions referred to in paragraph 5 of this Article commits a lewd act against a child under the age of fifteen shall be sentenced to imprisonment for a term of between one and ten years.

If a child over the age of 15 does not consent to sexual intercourse or a sexual act equated with it, or if the perpetrator of sexual intercourse or an equivalent sexual act commits it by using force or threatening to directly attack the life or body of a raped child over the age of 15 or other person, and the criminal offence was committed against a close person (who needs to be observed in terms of the meaning of the expression of Article 87 paragraph 9) or the criminal offence is committed against a person especially vulnerable due to his/her age, illness, pregnancy, addiction, disability or serious physical or mental disability, the perpetrator shall commit the a criminal offence referred to in Article 154 (Serious Criminal Offences against Sexual Freedom) in connection with Article 153 (Rape).

Close persons (defined in Article 87 Paragraph 9) are family members, former spouse or common-law partner, former life partner or informal life partner, current or former partner in intimate relationship, persons who have a common child and persons living in a joint household.

Here you can upload any file(s) in support of your answer

b. **[for 22 Parties + Belgium] where the victim is below 18 and emancipated through marriage, and the perpetrator is the victim's spouse or marital partner?**^[13] Please refer to the specific legal provisions.

[13] *Ibid.*, Recommendation 7

- Yes
- No

Here you can upload any file(s) in support of your answer

c. **[for 22 Parties + the Republic of Moldova] where no coercion, force or threat is used by the perpetrator holding the position of trust, authority or influence?**^[14] Please refer to the specific legal provisions.

[14] *Ibid.*, Recommendation 8

- Yes
- No

Here you can upload any file(s) in support of your answer

SCOPE OF OFFENCE Question 4. Does your national legal framework:

a. **criminalise sexual abuse of children for acts other than sexual intercourse and equivalent actions?**^[15]

Please specify which other acts are covered and whether violation of a child's "sexual integrity" specifically is criminalised.

[15] *Ibid.*, Recommendation 9

- Yes
- No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (4.a Yes)

Croatian Criminal Code criminalises actions other than sexual intercourse and equivalent actions committed by a perpetrator.

Article 158 of the Criminal Code prescribes criminal liability for the person who engages in sexual intercourse or a sexual act equated with sexual intercourse with a child under the age of fifteen, but also for the person who induces a child under the age of fifteen to engage in sexual intercourse or a sexual act equated with a third person or to perform sexual act equated with sexual intercourse upon him/her self.

Article 159 criminalises these three modalities of commission if the victim is a child over the age of fifteen, and the perpetrator is one of persons from the child's circle of trust (as explained in answer to the question 1.a).

Article 154 of the Criminal Code, in conjunction with Article 153 of the Criminal Code, criminalises these three modalities of commission if the victim is a child over the age of fifteen, but the offence is committed by a close person, or towards a child especially vulnerable because of their age, illness, addiction, pregnancy, disability, severe physical or mental disability, and the act was committed without consent or by use of force or threat of direct attack on the life or limb of the raped or other person.

Beside sexual intercourse and equivalent action, Article 158 paragraph 2 of the Criminal Code prescribes criminal liability for whoever commits a lewd act against a child under the age of fifteen, or induces a child under the age of fifteen to commit a lewd act with a third party or upon himself/herself. Criminal offence referred to in Article 158 Paragraph 6 of the Criminal Code, as aggravated form of criminal offence, criminalises acts prescribed by Article 158 Paragraph 2 (lewd acts) committed by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence of the child on him/her. Article 155 of the Criminal Code criminalises lewd acts committed against a child over the age of fifteen.

Article 156 of the Criminal Code criminalises sexual harassment of another person who is the subordinate of the perpetrator or who is in a situation of dependence with respect to him/her or who is especially vulnerable due to his/her age, illness, disability, addiction, pregnancy, a severe physical or mental disability.

Child's „sexual integrity“ is not explicitly mentioned or defined by the Criminal Code, but the Criminal Code prescribes other criminal offences of child's sexual abuse and sexual exploitation, as follows:

Article 160 prescribes Satisfying Lust in the Presence of a Child under the Age of Fifteen, Article 161 prescribes Grooming of Children for the Purpose of Satisfying Sexual Needs, Article 162 prescribes Child Pandering, Article 163 prescribes Exploitation of Children for Pornography, Article 164 prescribes Exploitation of Children for Pornographic Performances and Article 165 prescribes Acquainting Children with Pornography.

Here you can upload any file(s) in support of your answer

b. **[for 22 Parties + Bulgaria] ensure equal sanctions for sexual abuse committed within a heterosexual and homosexual sexual activity?**^[16] Please refer to the specific legal provisions.

[16] *Ibid.*, Recommendation 11

- Yes
 No

Here you can upload any file(s) in support of your answer

c. [for 22 Parties + Albania and the Republic of Moldova] make any distinct reference to “homosexual activities” in the description of criminal offences involving sexual abuse and sexual exploitation of children?^[17] Please refer to the specific legal provisions.

[17] *Ibid.*, Recommendation 12

- Yes
 No

Here you can upload any file(s) in support of your answer

EX OFFICIO PROSECUTION Question 5. Does your national legal framework:

a. contain a requirement to investigate and prosecute sexual abuse and exploitation of children by someone in a recognised position of trust, authority or influence without a complaint from the victim or his/her legal representative? ^[18] Please refer to the specific legal provisions.

[18] *Ibid.*, Recommendation 57

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (5.a Yes)

All criminal offences of sexual abuse and exploitation of children (Title XVII. of the Criminal Code) are prosecuted ex officio.

Unless otherwise prescribed by law, the state attorney is obliged to initiate criminal proceedings if there is reasonable suspicion that a certain person has committed a criminal offense for which criminal proceedings are initiated ex officio, and there are no legal obstacles to prosecuting that person (Article 2 Paragraph 3 of the Criminal Procedure Act, Official Gazette, nos. 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13, 152/14, 70/17, 126/19, 130/20, 80/22).

In Republic of Croatia everyone is obliged to report a criminal offense for which the proceedings are initiated ex officio, which was reported to him or which he learned about. (Article 204 Paragraph 1 of the Criminal Procedure Act).

Here you can upload any file(s) in support of your answer

b. contain a requirement to continue the proceedings even if the victim has withdrawn his/her complaint /statements?^[19] Please refer to the specific legal provision(s).

[19] *Ibid*

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (5.b Yes)

This is not explicitly prescribed but derives from the fact that all criminal offences of sexual abuse and exploitation of children (Title XVII. of the Criminal Code) are prosecuted *ex officio*.

The withdrawal of the statement by victim does not lead to obligation of the State Attorney to give up the persecution. If the victim has withdrawn his/her complaint/statement the State Attorney shall proceed with the criminal prosecution if there is reasonable suspicion that a certain person has committed a criminal offense for which criminal proceedings are initiated *ex officio*.

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c. **[for Portugal]** in case of a sexual act committed by an adult in respect of a child aged 14-16 years old which does not result in the child's death or suicide, require the child victim to lodge a complaint as a prerequisite for investigation and prosecution?^[20]

[20] *Ibid.*, Recommendation 56

- Yes
 No

Here you can upload any file(s) in support of your answer

MEASURES IN RESPECT OF CHILDREN WHO SEXUALLY OFFEND AND CHILDREN DISPLAYING RISKY AND HARMFUL SEXUAL BEHAVIOUR Question 6. Does your national legal framework:

a. provide for non-criminal measures in respect of the children below the age of criminal responsibility who commit acts of sexual abuse towards other children?^[21]Please provide details.

[21] Inspired by *X and Others v. Bulgaria* (no. 22457/16), 2 February 2021 and *A.P. v. the Republic of Moldova* (no. 41086/12), 26 October 2021

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (6.a Yes)

In the Republic of Croatia, children under the age of 14 are not criminally responsible, and criminal proceedings cannot be initiated against them, but are dealt with within the jurisdiction of the social services, more precisely the Croatian Institute for Social Work. In relation to a child victim of sexual violence, even a perpetrator of sexual violence to the detriment of another child, a multidisciplinary treatment of the child is carried out and adequate therapeutic treatment is determined. The aforementioned treatment can be carried out individually with the child and together with the parents.

Within the jurisdiction of the Croatian Institute for Social Work, measures are implemented to protect the interests and well-being of the child, and professionals are required to take appropriate actions and procedures to protect and support victims of sexual violence. The aforementioned obligation is prescribed by the Family Law and the Protocol on handling cases of sexual violence.

In relation to a child who commits sexual violence against another child, and who is not criminally responsible, measures are also taken to protect the rights and well-being of the child in accordance with the legal framework, and the measure of separation from the family may be applied to the child depending on the assessment of the threat to the rights and well-being of the child as well as risk and protective factors of the child, parents and family environment. Multidisciplinary treatment is also carried out with the aim of planning individual treatment, and within the framework of the social welfare service, a comprehensive assessment is carried out with the aim of providing the child and parents with adequate psychosocial support and counselling.

Here you can upload any file(s) in support of your answer

b. [differentiate between adults and children above the age of criminal responsibility in the application of sanctions for offences involving sexual abuse of children?](#)^[22] Please refer to the specific legal provision(s) and specify the age of criminal responsibility in your legislation.

[22] Question included for capacity-building purposes

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (6.b Yes)

Croatian legal framework generally differentiates between sanctions which may be imposed to children above the age of criminal responsibility and sanctions which may be imposed to adults.

The age of criminal responsibility in the Republic of Croatia is 14. (Article 7 Paragraph 1 of the Criminal Code)

Juvenile Courts Act (Official Gazette, no. 84/11, 143/12, 148/13, 56/15, 126/19; hereinafter: the JCA) differentiates between younger minors (who at the time of the commission of the criminal offence turned 14 but did not turn 16 years of age) and older minors (who at the time of the commission of the criminal offence turned 16 but did not turn 18 years of age).

Sanctions which may be imposed to younger minors are educational measures and security measures (Article 5 (2) of the JCA). Sanctions which may be imposed to older minors are educational measures and security measures, and juvenile imprisonment. (Article 5 (3) of the JCA)

Educational measures are (Article 7 (1) of the JCA): 1) court reprimand, 2) special obligations, 3) increased care and supervision, 4) increased care and supervision with day care in an educational institution, 5) referral to a disciplinary center, 6) referral to an educational institution, 7) referral to an educational institute, 8) referral to a special educational institution.

According to Article 24 of the JCA juvenile imprisonment is a punishment of deprivation of liberty with particularities in relation to the conditions of imposition, duration, purpose and content of the sanction. Juvenile imprisonment may be imposed on an older minor for a criminal offense for which the law prescribes a prison sentence of three years or a more severe punishment, when considering the nature and severity of the offense and the high degree of culpability, it would not be justified to impose an educational measure, but a punishment is necessary.

According to Article 25 of the JCA juvenile imprisonment cannot be shorter than six months or longer than five years, and it is imposed in full years and months. If a long-term prison sentence is prescribed for a criminal offense, or in a situation of conjunction of at least two criminal offenses for which a prison sentence of more than ten years is prescribed, juvenile imprisonment can last up to ten years. The court cannot impose juvenile imprisonment for a longer period than the prescribed punishment for the committed criminal offense, but it is not bound by the minimum prescribed measure of that punishment.

According to Article 28 of the Juvenile Courts Act (Withholding the imposition of juvenile prison) the court may declare that a minor is guilty of a criminal offense and at the same time withhold the imposition of a juvenile prison sentence when it considers that the declaration of guilt and the threat of subsequent imposition of a sentence can deter the perpetrator from further criminal offences.

The court determines that a minor may be subsequently sentenced to juvenile prison if, during the period determined by the court, which cannot be shorter than one nor longer than three years (the probation period), he commits a new criminal offense or if he opposes the implementation of educational measures.

CHILD VICTIMS' RIGHT TO PROTECTION AND PARENTAL RIGHTS

Question 7. Does your national legal framework:

a. provide for the possibility for child protection professionals to conduct exploratory interviews of a child without informing in advance the parents/legal guardians in cases in which there is a reasonable suspicion of sexual abuse by someone in a recognised position of trust, authority or influence and there is a reason to believe that parents/legal guardians may prevent a child from disclosing sexual abuse?^[23] Please provide details.

[23] 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 26

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (7.a Yes)

Pursuant to Article 42 of the Police Duties and Powers Act, minors are contacted through parents, guardians, foster parents, or persons who have been entrusted with their care, and in special circumstances, through the social welfare centre. Suspicion that a parent or another person of trust could prevent a child from full disclosure is precisely one of those special circumstances where the child is contacted in coordination with the competent regional office of the Institute for Social Work. Whenever it is suspected that a child is victimised by someone close to them or a person that they are dependent upon, they are contacted in such a way as to prevent those around them from influencing them or their statement.

The national legal framework provides for the possibility for child protection professionals to conduct exploratory interviews of a child without informing in advance the parents/legal guardians in cases in which there is a reasonable suspicion of sexual abuse by someone in a recognised position of trust, authority or influence and there is a reason to believe that parents/legal guardians may prevent a child from disclosing sexual abuse.

The victim of sexual abuse may come to the health facility alone or accompanied by the police and/or a trusted person. If the victim arrives unaccompanied by the police, health workers are obliged to call the police without delay, and if the victim is a child, it is necessary to inform the parents, guardian or person entrusted with the care of the child, unless it is suspected that they are the perpetrators of sexual violence. In that case they call a professional worker of the Croatian Institute for Social Work (hereinafter: the Institute) or outside the working hours the on-call professional worker of the Institute.

Upon consent of the victim, a parent/guardian, a representative of the Institute or another person of trust of the victim may attend the medical examination.

In the case of an older child, the anamnesis, as well as the examination, is performed without the presence of a parent or escort, in private, to exclude their influence on the child's statements, unless the child requests the presence of a close person. When examining a young child, a parent, that is, another legal representative or a professional worker of the Institute, may be present during the examination.

The healthcare professional is obliged to ensure an undisturbed conversation with the child alone and separately from the escort, and to allocate enough time to gain the child's trust and to reveal to the child, without suggestive questions from the doctor, the circumstances and the type of sexual abuse that has occurred. The doctor enters the child's words and manner of expression in the medical records using quotation marks.

Here you can upload any file(s) in support of your answer

b. provide for the possibility for child protection professionals to conduct exploratory interviews of a child without acquiring the parents/legal guardians' prior consent in cases in which there is a reasonable suspicion of sexual abuse by someone in a recognised position of trust, authority or influence and there is a reason to believe that parents/legal guardians may prevent a child from disclosing sexual abuse?^[24] Please provide details.

[24] *Ibid*

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (7.b Yes)

Pursuant to Article 18, paragraph 1 of the Police Duties and Powers Act, children are interviewed by a specially trained police officer, usually in the presence of a parent, guardian, or persons who have been entrusted with their care, or an expert from the social welfare centre. Pursuant to paragraph 5 of the said Article, in cases where the parent or another person of trust is suspected to be the perpetrator of a criminal or misdemeanour offence against the child, the interview and all other actions by the police are taken in the presence of an expert member of staff from the regional office of the Institute for Social Work in order to prevent any negative influence on the child during the interview. Parents' consent to the interview is not required in cases where there is a suspicion of child sexual abuse or exploitation, or, if parents are opposed to the interview, it is conducted in the presence of an expert member of staff from the regional office of the Institute for Social Work.

Children can use the online Red Button application on the website of the Ministry of the Interior to report sexual abuse and exploitation.

The national legal framework provides for the possibility for child protection professionals to conduct exploratory interviews of a child without acquiring the parents/legal guardians' prior consent in cases in which there is a reasonable suspicion of sexual abuse by someone in a recognised position of trust, authority or influence and there is a reason to believe that parents/legal guardians may prevent a child from disclosing sexual abuse.

Example of procedure in the Zagreb Child and Youth Protection Center - source: <https://www.poliklinika-djeca.hr/o-poliklinici/pravila-postupanja-u-zastiti-djece/pravila-postupanja-u-zastiti-djece-child-protection-policy/>

Furthermore, the Act on the Protection of Patients' Rights (Official Gazette No. 169/04 and 37/08) determines the rights of patients when using health care and the way to protect and promote these rights.

Article 17 regulates the protection of a patient who is not able to give consent, as follows:

For a patient who is unconscious, for a patient with a serious mental disorder, and for a mentally incompetent or minor patient, except in the case of urgent medical intervention, the consent from Article 16 (2) of this Act is signed by the legal representative, or guardian of the patient.

In the interest of the patient, the person referred to in paragraph 1 of this Article may withdraw the consent at any time by signing a statement rejecting a particular diagnostic or therapeutic procedure.

If the interests of the patients referred to in paragraph 1 of this Article are opposed to the interests of their legal representatives, i.e. guardian, the healthcare worker is obliged to immediately inform the competent social welfare centre.

According to the Act on Medical Practice (Official Gazette No. 121/03 and 117/08) and the Dental Medicine

Act (Official Gazette no. 121/03, 117/08, 120/09 and 46/21), a doctor or a doctor of dental medicine is obliged to file a report to the police or the State Attorney's Office, when during its activity they suspect that a person's death or bodily injury occurred violently.

A doctor or a doctor of dental medicine is obliged to submit such report even when he suspects that a minor or disabled person's health condition is seriously endangered by neglect or abuse.

Issues related to the relationship between children and parents and wards and guardians are defined in the Family Act (Official Gazette 103/15 and 98/19).

Considering that the Family Act is within the competence of the Ministry of Labour, Pension System, Family and Social Policy, we quote the provisions related to the Informed Consent of the Child to Medical Procedures:

Informed consent of the child to medical procedures

Article 88

(1) A child who has reached the age of sixteen and who, in the opinion of a doctor of medicine, has the information necessary to form their own opinion on a particular matter and, in their opinion, is mature enough to decide on a preventive, diagnostic or therapeutic procedure regarding their health or treatment, may independently give consent to a medical examination, medical test or medical procedure (informed consent).

Here you can upload any file(s) in support of your answer

c. allow for the removal of the suspected perpetrator from the family environment in case of reasonable suspicion of sexual abuse of a child living in the same environment together with the suspect?^[25] Please provide details.

[25] This question results from the Committee's reasoning that "before resorting to the removal of the victim, the removal of the perpetrator should be preferred" (page 28 of the 1st implementation report).

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (7.c Yes)

Articles 98-101 of the Criminal Procedure Act (Official Gazette, no. 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13, 152/14, 70/17, 126/19, 126/19, 130/20, 80/22) prescribe precautionary measures that are determined when there are grounds for pre-trial detention or that detention has already been determined, if the same purpose can be achieved by a precautionary measure, as a milder measure, and with a warn to the defendant that in case of non-compliance with the imposed measure, it will be replaced by pre-trial detention. The Act prescribes, among others, precautionary measures of removal of the perpetrator from home. It is important to point out that precautionary measures can be ordered before, i.e. in the previous procedure, as well as during the criminal procedure until the court decision is made (until the finality or enforceability of the verdict, and these measures can last as long as there is a need for it, the longest until the verdict is enforceable, i.e. the longest until the verdict becomes final, depending on the legal basis on which they were determined). Also, by decision, the court can determine precautionary measures as independent precautionary measures, and in doing so, the court will warn the defendant that non-compliance with the imposed independent precautionary measure is a criminal offence.

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d. **consider the removal of the child victim from the family environment as a last resort procedure? Is that procedure clearly defined, and does it set out conditions for and duration of the removal?**^[26] Please provide details.

[26] *Ibid.*, Recommendation 27

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (7.d Yes)

The Family Law is a fundamental normative act in the Republic of Croatia, which defines measures for the protection of the rights and interests of children, including the separation of a child from the family. One of the fundamental principles of the Family Law is the principle of proportionate and mildest intervention in family life, which determines that measures that interfere with family life are acceptable if they are necessary and their purpose cannot be successfully achieved by taking milder measures, including preventive assistance, i.e. family support. In all proceedings in family-law matters related to the child, the competent authorities must act quickly while simultaneously protecting the child's well-being.

Separation of a child from the family means any measure because of which the child is separated from the family and placed with another person who meets the requirements for a guardian, in a foster family, in a social welfare institution or with another natural or legal person that performs social welfare activities. The purpose of removing a child from the family must be to protect the child's life, health and development, to ensure adequate care for the child outside the family and create conditions for the child's return to the family, i.e. preparation of another permanent form of care for the child.

When the Croatian Institute for Social Work receives information about suspected sexual violence against a child, it is obliged to report the violence to the police immediately and without delay. Upon receiving information about suspected sexual violence against a child, the expert team is obliged to contact the child and family without delay and conduct a targeted specific assessment. The expert team will assess the need to take appropriate family legal measures to protect the rights and well-being of the child. When the perpetrator of violence is a parent, a family member or a guardian of a child or is involved in sexual exploitation or abuse of a child, the expert team will assess the threat and safety of the child, and in the event of an immediate danger to the child's life, health and safety, the child can be removed immediately from the family and provided with appropriate accommodation followed by a proposal to the court to temporarily entrust the child to another person, a foster family or a social welfare institution. Separation of the child from the family is temporary in nature and the purpose is to strengthen the parental capacities so that the child can return to the family, except in cases where it is necessary to deprive the parents of the right to parental care. The decision on allocation is made by the court. The measure of separating a child from the family can last for a maximum of one year, and if necessary, it can be extended for a maximum of another year, and the decision to separate the child must be regularly reviewed. Also, interdepartmental cooperation is necessary, and it is possible to prohibit contact between a child and a family member who is suspected of sexually abusing a child even before the sexual abuse of a child has been confirmed.

Here you can upload any file(s) in support of your answer

e. ensure that the different agencies involved in the coordination and collaboration concerning child sexual abuse are allowed to share personal information as appropriate?^[27] Please provide details.

[27] *Ibid.*, Recommendation 25

- Yes
- No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (7.e Yes)

In all cases of child sexual abuse and other detected criminal offences related to children, the police immediately inform the competent regional office of the Institute for Social Work in order to provide the necessary assistance and support to child victims and to potentially take further measures to protect the child.

The Protocol on the actions to be taken in case of child abuse and neglect lays down the mandatory actions to be taken by the police authorities, social welfare centres, judicial authorities and health and educational institutions in cases involving abused and neglected children. This, among other things, also includes timely exchange of information.

When taking actions, the police carry out an individual assessment of the victim in line with the Ordinance on the manner of conducting individual assessment of victims and they always send the filled in form on the conducted individual assessment of the victim's needs for protection and the form containing the information on the rights of the victim to the competent State Attorney's Office as an integral part of the file, in order to ensure timely exchange of information and provide for a comprehensive assessment of the needs of victims in each individual case. When it comes to child victims of criminal offences and misdemeanour domestic violence cases, it is always assumed that the measures of protection need to be provided.

Child victims and their parents are informed about their rights, orally and in writing, and are provided with a list of institutions, organisations and associations that provide support to victims. In addition, the Ministry of the Interior has concluded a partnership agreement with the Croatian association "Hrabri telefon" for the purpose of implementing the project entitled "Monitoring system – strengthening the support system for child victims of criminal offences" which includes a pilot project for establishing a system to direct child victims to this association, that is, for ensuring that the victims are contacted by the employees of the "Hrabri telefon" association with the consent of their parents or guardians after they report the criminal offence to the police. Inter-organisational coordination meetings are organised where necessary in specific cases. Likewise, during regular monthly local team meetings held on the basis of the Agreement on inter-organisational cooperation and coordination in the prevention of violence and other threatening behaviours on the local level, the heads of police stations, who are in charge of organising activities on the local level, also initiate activities and work meetings with representatives from the social welfare system, educational institutions and health services. Such meetings are aimed at identifying and harmonising the need for inter-sectoral action and harmonised procedures to address identified issues that are manifested through various modalities of violence, including child sexual abuse.

When working on cases of child sexual abuse and in communication and sharing of information about the child victim, all institutions involved in the work are guided by the principle of data confidentiality. The confidentiality of information is protected with the aim of protecting the child's rights, and care is taken to protect the privacy of children and their families in the storage and preservation of documentation.

Documentation containing information about the child is marked with a data confidentiality label, and relevant information is shared exclusively between institutions that work directly with the family and the child, such as courts, health institutions, clinics, social welfare institutions and State Attorney's Office.

Here you can upload any file(s) in support of your answer

CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

Question 8. Does your national legal framework clearly distinguish:

- cases of suspension of parental rights as a provisional measure to protect the child before a court decision on the conviction of the concerned parent is taken, and
- cases of withdrawal of parental rights once the court has convicted the said parent?^[28] Please provide details.

[28] *Ibid.*, Recommendation 32

- Yes
 No

Please provide information in support of your answer, if possible by referring to specific legal provisions and their exact wording (8 Yes)

The national legislation of the Republic of Croatia regulating family relations stipulates that everyone is obliged to report a violation of the child's personal and property rights to the Croatian Institute for Social Work.

Violation of personal rights includes in particular: physical or mental violence, sexual abuse, neglect or careless treatment, child abuse or exploitation.

The Institute is obliged to investigate the case immediately upon learning of a suspected violation of the child's rights and, accordingly, to take measures to protect the child's rights, and to notify the person who submitted the notification.

Measures to protect the rights and well-being of the child are determined upon expert team assessment if there has been a violation of the child's rights and well-being or that the rights, well-being, and development of the child are endangered, as assessed by the institution's expert team: social worker, psychologist, and lawyer.

If it is established that there is a well-founded suspicion that the child is exposed to sexual abuse in the family, the Institute has at its disposal to determine a measure within its jurisdiction and to determine an urgent measure of separating the child from the family, and at the same time propose to the competent court a temporary measure restricting the parents from carrying out certain aspects of parental care, for example, a ban on personal relations with the child until the suspicion of committing a criminal offense against the child is confirmed.

Deprivation of the right to parental care in relation to the execution of all the contents of parental care is the ultimate and most severe measure determined by the court in the most serious cases of abuse or gross violation of parental responsibility, duties, and rights.

The aforementioned measure can be imposed on the parents even before the decision on the conviction of the parents is made.

Here you can upload any file(s) in support of your answer

CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

Question 9. Does your national legal framework provide for:

- a. [automatic suspension of parental, visitation, and child hosting rights of parents against whom criminal proceedings for sexual abuse of own child are pending](#)?^[29] Please provide details.

[29] Question included for capacity-building purposes, i.e. to map whether there are Parties that have a particular legal framework in such cases.

- Yes
 No

If appropriate, please provide more information (9.a No)

Automatic suspension of parental rights is not prescribed by national legislation. Limitation of parental care or deprivation of parental care is within the competence of the court that makes the decision. In certain situations, the court can decide on the prohibition of approaching the child, contacting the child in any way, as well as the prohibition of unauthorized approaching and disturbing the child at a certain distance until all the circumstances related to the suspicion of child abuse have been determined. These decisions are made in court proceedings and not automatically. It is emphasized that all procedures in which decisions are made about the child's rights and interests are urgent.

Here you can upload any file(s) in support of your answer

- b. [automatic withdrawal of parental rights of parents convicted of sexual abuse of own child](#)?^[30] Please provide details.

[30] *Ibid*

- Yes
 No

If appropriate, please provide more information (9.b No)

Please see the answer to question 9a.

Here you can upload any file(s) in support of your answer

GUARANTEES OF PROTECTION FOR PERSONS REPORTING SUSPECTED OFFENCES Question 10.

How does your national legal framework ensure that any person reporting in good faith suspected sexual abuse and sexual exploitation of a child, including a person bound by professional confidentiality rules, does not get prosecuted or punished by judicial proceedings for defamation, libel or similar offences?^[31]

[31] Based on *Yuppala v. Finland* (no. 18620/03), 2 December 2008 and *M.P. v. Finland* (no. 36487/12), 15 December 2016. Partly based on Article 12 of the Lanzarote Convention.

Criminal offence of Libel (Article 149 Paragraph 1 of the Criminal Code) prescribes, as follows:

„Whoever, knowing that it is untrue, makes or conveys an untrue factual statement about someone in front of others that may harm his honour or reputation, will be fined up to three hundred and sixty daily amounts.” It is evident that reporting someone in good faith would not amount to criminal offence of Libel, which implies knowing that a statement is untrue.

As regards persons bound by professional confidentiality rules, the Criminal Code prescribes the exclusion of illegality for the criminal offence Unauthorized Disclosure of a Professional Secret (Article 145 paragraph 2 of the Criminal Code). Article 145 of the Criminal Code prescribes as follows:

Article 145

(1) A lawyer, notary public, health care worker, psychologist, employee of a social welfare institution, religious confessor or other person who discloses information about personal or family life entrusted to them in the performance of their profession without authorization, shall be punished by imprisonment for up to one year.

(2) There is no criminal offense referred to in paragraph 1 of this Article if the disclosure of a secret is committed in the public interest or in the interest of another person which is more important than the interest of keeping the secret.

(3) The criminal offense referred to in paragraph 1 of this article is prosecuted upon motion.

In Republic of Croatia everyone is obliged to report a criminal offense for which the proceedings are initiated ex officio, which was reported to him or which he learned about. (Article 204 Paragraph 1 of the Criminal Procedure Act).

There is no specific legal framework within the educational system that ensures that any person reporting in good faith suspected sexual abuse and sexual exploitation of a child, including a person bound by professional confidentiality rules, does not get prosecuted or punished by judicial proceedings for defamation, libel or similar offences besides articles proscribed in Criminal Act (Official Gazette, Number 125 /11, 144/12, 56/15, 61/15, 101/17, 118/18, 126/19, 84/21, 114/22).

Within the framework of the social welfare system, professional workers, i.e. officials, perform tasks in accordance with the rules of the profession and professional ethics while respecting the user's personality, dignity and the inviolability of his personal and family home. Also, most professions have a code of ethics according to which they are obliged to undertake all available activities and use all available means to protect people who are abused or may become so in any way, as well as people who are at risk of being exploited on any basis. It is equally their duty to undertake appropriate professional interventions with persons who could commit violence against others or against themselves. Therefore, it is assumed that an official who reports suspected sexual abuse and sexual exploitation of a child does so in compliance with legal frameworks, professional and business ethics. In the relationship of confidentiality between the expert and the child, the expert is obliged to report all information about the suspected commission of a criminal offense against the child to the police without delay and to take all measures in cooperation with other systems to protect the child. The expert is not subject to criminal or misdemeanor liability. Also, any person can anonymously report information of a suspected criminal offense to the detriment of a child or can request that their name not be disclosed, without sanctions.

Prosecution and punishment for the criminal offense of defamation is prescribed by the Criminal Code, which is the responsibility of the Ministry of Justice and Administration.

When it comes to persons who are bound by the rules on business confidentiality in the health care system, in accordance with the applicable provisions of the Act on Medical Practice (Official Gazette 121/03 and 117/08) and the Dental Medicine Act (Official Gazette no. 121/03, 117/08, 120/09 and 46/21), a doctor as well as a doctor of dental medicine is obliged to file a report to the police or the State Attorney's Office when during the performance of medical or dental medicine activities they suspect that a person's death or bodily injury occurred violently. A doctor as well a doctor of dental medicine is obliged to report when they suspect that a minor or disabled person's health condition is seriously endangered by neglect or abuse. Therefore, a doctor and a doctor of dental medicine shall be punished with the prescribed fine for the misdemeanour if they fail to comply with the reporting obligation.

Here you can upload any file(s) in support of your answer

ASSISTANCE TO THIRD PARTIES Question 11.

What kind of legislative or other measures does your national legal framework have in place to ensure that persons close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care?^[32]

[32] 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 30

Psychological help in this way is regulated by regulations under the jurisdiction of the Ministry of Health, persons who need the professional help of a psychologist or psychiatrist can, on the basis of a D1 referral from a primary care physician, receive the possibility of going to treatment, counseling treatment by a psychologist or psychiatrist. Also, the Centers for Mental Health, which were established at the Institutes of Public Health in all countries, provide professional psychological and psychiatric help.

The national legal framework of the Republic of Croatia prescribes social services that include activities aimed at identifying, preventing and solving problems and difficulties of individuals and families and improving the quality of their life in the community. Therefore, when dealing with cases of suspected sexual violence or sexual abuse, the Croatian Institute for Social Work will assess the need to provide counselling and assistance services and psychosocial support. Furthermore, it can refer the child to appropriate forms of psychological and therapeutic help, rehabilitation programs and other types of professional help and support provided in the community.

In the Republic of Croatia, every person, including persons close to the victim, has the right to therapeutic assistance, including urgent psychological care within the framework of the right to health care, in accordance with the provisions of the Health Care Act (Official Gazette no. 100/18, 125/19, 147/20, 119/22, 156/22 and 33/23), the Mandatory Health Insurance Act (Official Gazette no. 80/13, 137/13, 98/19 and 33/23), the Act on the Protection of Patients' Rights (Official Gazette no. 169/04 and 37/08) and numerous other laws and by-laws.

Mental health care, including urgent psychological care for people close to the victim in the Republic of Croatia, is provided at all levels of health care – at the primary, secondary and tertiary levels, as well as at the level of health care institutions.

Psychiatric activity is carried out in general and special hospitals, as well as in day hospitals, and in order to ensure access to the mental health care system throughout the country, there are mental health services for

the prevention and outpatient treatment of addiction at county public health institutes in addition to doctors at the primary level of health care. In total, there are 48 such teams in Croatia, consisting of a psychiatrist, psychologist, and nurse. A special Mental Health Counselling Centre also operates within the Croatian Institute of Public Health. In some counties, as in the City of Zagreb, there are also centres for mental health of youth and free psychological counselling.

Amendments to the Health Care Act provide the basis for the establishment of mobile teams within psychiatric activities at the primary, secondary and tertiary level of health care, as well as mental health clinics at the level of primary health care.

In November 2022, the Government of the Republic of Croatia adopted the Strategic Framework for the Development of Mental Health until 2030, and its purpose is to establish long-term goals for the improvement of existing and development of new models of mental health protection in accordance with the already adopted complementary strategies in other areas, especially in the field of health care, in order to reduce the occurrence of mental disorders and disabilities associated with them and increase the availability of care throughout the territory of the Republic of Croatia.

Active cooperation of all participants in the implementation, in particular the health, social welfare, employment, family legal protection, education, economy, justice, and internal affairs systems, both at the national and local levels, is crucial, and cooperation with civil society and non-governmental organizations is especially important.

In general, activities in the area of mental health will continue to intensify in cooperation with experts in this field, representatives of civil society, other state administration bodies as well as the international community. The PoMoZi Da educational program is a standardized program aimed at improving the mental health literacy of educational staff in the field of mental health of children and youth with an emphasis on improving the recognition of mental health problems in children and youth and learning the skills of psychological first aid. Psychological first aid is especially important in crisis situations and conditions that can be caused by domestic violence, in order to protect victims of violence in a timely manner and provide them with emotional first aid and to direct them to seek protection and necessary professional assistance.

Professional contact persons for cases of sexual violence have been appointed in health care institutions at mental health care units in order to accelerate and coordinate the process of ensuring the necessary mental health protection.

Here you can upload any file(s) in support of your answer

ASSISTANCE TO THIRD PARTIES Question 12.

When determining the support required to the victim and the persons close to him or her, how does your national legal framework ensure that the child's disclosure does not worsen his or her situation and that of the other non-offending members of the family?^[33]

[33] *Ibid.*, Recommendation 31

According to Article 9 of the Ordinance on actions of educational workers in school institutions when taking measures to protect students' rights and reporting any violation of those rights to authorities (Official Gazette, 132/2013), in the conversation with the student-victim, educational workers are obliged to act carefully, respecting the student's dignity, privacy and providing support to all participants. If it is a particularly severe form or intensity of violent behaviour that has caused or may cause trauma to students who are victims of a violent event or to other students who witnessed that event, it is necessary to inform the Ministry of Science and Education (or other ministries), which, if necessary, will ensure the provision of

appropriate psychological, professional or social-pedagogical-psychological assistance. If the event includes a student with disabilities, educational workers are obliged to respect all peculiarities related to these disabilities.

According to the Protocol on procedure in case of sexual violence (Official Gazette,70/2018), it is preferable that the interview be conducted by a school's professional associate (psychologist, pedagogue, etc.) in a safe environment, bearing in mind the protection of the rights of the child. Also, it is important that the employee of the educational institution does not question the child in order to determine all the facts and circumstances of the act itself, but listens to the child in a calm manner and does not force him to give a detailed description of the act, but allows the child to describe the situation independently, in a way and to the extent that he/she wants it. If the professional associate is not available or the child does not agree to an interview with them, the interview can be conducted by another employee of the educational institution in whom the child trusts, (classroom teacher, other teacher, principal or the school doctor). If the child speaks about an event that has just occurred, the victim must be provided with appropriate help and protection without delay, and the police and the centre for social welfare should be immediately informed about the facts of the event.

Professionals who act in cases of violence against children are obliged to act in accordance with the General Regulation on the Protection of Personal Data (EU) 2016/679, the Law on the Implementation of the General Regulation on Data Protection ("Official Gazette", number: 42/18) and the principle of secrecy and protection personal data, as well as the principle of user privacy protection prescribed by the Social Welfare Act ("Official Gazette": no.: 18/22, 46/22 and 119/22), according to which the user of rights in the social welfare system must be ensured the secrecy and protection of personal data. Furthermore, one of the goals of the Protocol on handling cases of sexual violence is to ensure the confidentiality of data in accordance with the applicable regulations, ethical codes, and international treaties to which the Republic of Croatia is a party, which relate to the protection of privacy. Professional workers of the Croatian Institute for Social Work act in accordance with the authorities and prescribed measures for the protection of the rights and well-being of the child as well as the rights and services of social welfare, the rules of the profession and professional ethics.

Here you can upload any file(s) in support of your answer

MONITORING OF OFFENDERS Question 13. Does your national legal framework provide for:

a. a mechanism to monitor or supervise persons convicted of child sexual abuse and, specifically, persons convicted of child sexual abuse while holding a recognised position of trust, authority or influence?^[34]

Please provide details.

[34] *Ibid.*, Recommendation 33

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (13.a Yes)

If, alongside the sentence, the court has imposed to perpetrator of criminal offence of child sexual abuse and exploitation a certain types of security measures or a protective supervision, this allows monitoring and supervision over the convicted person.

The court shall impose to the perpetrator of criminal offences referred to in Title XVI. (Criminal offences against sexual freedom) and Title XVII. (Criminal offences of sexual abuse and exploitation of children) of the Criminal Code committed against a child the prohibition of the performance of duties or professions which involve regular contact with children also when these criminal offences were not committed in carrying out the duty or profession, if there is a risk that the perpetrator shall again commit those criminal offences by abusing these duties and professions, and it may be imposed for life. (Article 71 Paragraph 3 of the Criminal Code).

The court shall impose on perpetrator a security measure of prohibition of approaching, disturbing or stalking of the victim, another person or group of persons or of prohibition of approaching a certain place, when there is a risk that the perpetrator could again commit a criminal offense against those persons or in those places. (Article 73 Paragraph 1 of the Criminal Code) The court will inform the police about the judgement by which this security measure was pronounced. (Article 73 Paragraph 5 of the Criminal Code)

The security measure of protective supervision after serving the full prison sentence shall be imposed by the court on the perpetrator if he has been sentenced to imprisonment for five or more years for an intentional criminal offense or for two or more years for an intentional criminal offense characterized by violence or to imprisonment for another criminal offense referred to in Title XVI (Criminal offences against sexual freedom) or XVII (Criminal offences of sexual abuse and exploitation of children) of the Criminal Code under the condition that the sentence is fully served because the convict was not granted conditional release. Immediately after release from prison, the perpetrator shall be subject to protective supervision in accordance with Article 64 of the Criminal Code and special obligations referred to in Article 62 Paragraph 2 Items 6 to 9, if they were imposed on him in addition to protective supervision. The probation period lasts from one to three years, unless the criminal offense was committed to the detriment of a child, when the probation period lasts from one to five years. (Paragraph 76 of the Criminal Code)

According to Article 64 of the Criminal Code the court shall order protective supervision over the perpetrator when it deems that he needs help, guidance and supervision of the competent probation authority so that he does not commit criminal offenses in the future and so that he can more easily integrate into society. Protective supervision is based on an individual treatment program and whose implementation is supervised by the competent probation authority.

During the protective supervision, the perpetrator must (Article 64 (5) of the Criminal Code):

1. report regularly to the probation officer,
2. receive visits from the probation officer in the home and provide him with all the necessary information and documents,
3. seek the consent of the execution judge for the trip abroad,
4. inform the probation officer about a change of employment or address, within two days of that change, and about a trip lasting more than eight days and the day of return

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b. **sharing with other countries data concerning persons convicted of child sexual abuse?**^[35] Please provide details.

[35] Based on Article 38 of the Lanzarote Convention.

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (13.b Yes)

The domestic national legislative framework of the Republic of Croatia makes it possible to provide for a sharing with other countries data concerning persons convicted of child sexual abuse. This is made possible by the law that regulates mutual legal assistance in criminal matters, as well as (numerous) bilateral and multilateral agreements on mutual legal assistance, which according to the Constitution form an integral part of national law. The law regulating the organization and keeping of criminal records contains also a special section within the criminal record register where information is entered on persons who have been legally convicted of crimes against children, primarily crimes of sexual abuse and exploitation.

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MEASURES IN RESPECT OF PROFESSIONALS AND LEGAL PERSONS Question 14. Does your national legal framework:

a. **allow for the immediate removal or suspension of a professional or volunteer working with children suspected of sexually abusing a child?**^[36] Please provide details.

[36] Based on Article 27§3(b) of the Lanzarote Convention.

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (13.a Yes)

Articles 122-144 of the Criminal Procedure Act regulate the application of pre-trial detention, which can be ordered if there is a reasonable suspicion that a certain person has committed a criminal offense and if:

- 1 the person is on the run or there are special circumstances indicating a danger of flight (the person is in hiding, his identity cannot be established, etc.);
- 2) if there are special circumstances indicating that he will destroy, hide, alter or forge items of evidence or traces of importance to the criminal proceedings or that he shall impede the criminal proceedings by influencing witnesses, expert witnesses, coprincipals or accessories;
- 3) if there are special circumstances indicating a danger that he will repeat the offence, or complete the attempted one, or perpetrate a felony he threatens to commit, for which the law foresees imprisonment of five years or more;
- 4) if pre-trial detention is deemed necessary for undisturbed conducting of the proceedings due to especially grave circumstances of the offence and a sentence of long-term imprisonment is prescribed for such an offence;

5) if the duly summoned defendant evades appearance at the trial.

Pre-trial detention is the ultimate measure to ensure the defendant's presence in the proceedings. In the case that there are circumstances due to which the determination of pre-trial detention is possible, the court or the state attorney will, if the same purpose can be achieved by the precautionary measure prescribed in Articles 98-191 of the Criminal Procedure Act, determine the use of one or more of such measures, for example in this case prohibition of certain business activity (Article 98 Paragraph 2, Point 6).

Pursuant to Paragraph 4 of Article 106 of the Primary and Secondary School Education Act if a school institution as an employer obtains information that criminal proceedings have been initiated against a person employed in the school institution for one of the criminal offenses referred to in paragraph 1 of the same Article, it will suspend the person from performing their duties until the criminal proceedings are suspended, i.e. at the latest until the final court judgement is issued, with the right to salary compensation in the amount of two-thirds of the average monthly salary that the person earned in the three months prior to being suspended from work. Employment in a school institution may not be established with a person who has been convicted of sexually molesting or abusing a child, pursuant to the Criminal Act.

Immediate removal or suspension of a professional or volunteer working with children is possible in case of knowledge that a certain criminal procedure has been initiated against the person, which includes the procedure before the competent court for the criminal offense of sexual abuse or exploitation of a child. Removal or suspension measures are undertaken by the employer based on special regulations that regulate the field of activity, that is, the employment legal relationship in specific field.

In accordance with Article 7 of the Act on Medical Practice, a doctor's right to perform a medical activity will cease, inter alia, if a security measure has been imposed on him/her prohibiting the performance of a medical activity, and if he/she has lost the right to perform a medical activity by a disciplinary punishment of the Croatian Medical Chamber's body.

Article 156 of the Health Care Act prescribes the following:

(1) A health care professional, who has been convicted of any of the criminal offences referred to in Title XVI of the Criminal Code – Criminal offences against sexual freedom and Title XVII of the same Act – Criminal offences of sexual abuse and exploitation of a child, may not be employed to perform activities in the health care sector involving work with children, nor may he/she perform activities in the health care sector involving work with children.

(2) The employer shall be obliged to obtain ex officio proof that the person referred to in paragraph 1 of this Article has not been convicted of the criminal offences referred to in paragraph 1 of this Article.

According to the Article 111, paragraph 5 of the Sports Act of the Republic of Croatia, if a legal person in the sports system, as an employer, becomes aware that criminal proceedings for a criminal offence against a child or a juvenile have been initiated and conducted against a person performing sports activities, it shall remove this person from performing activities in sports in which he/she comes into contact with children or juveniles until the criminal proceedings are suspended or the court verdict becomes final.

Here you can upload any file(s) in support of your answer

b. ensure that professionals working in the public, private or voluntary sectors failing to report offences of child sexual abuse occurring in “out-of-home care”^[37] settings are held liable?^[38] Please provide details.

[37] In accordance with the Declaration of the Lanzarote Committee on protecting children in out-of-home care from sexual exploitation and sexual abuse adopted at its 25th meeting (15-18 October 2019), “out-of-home care” represents all settings in which children can be placed out of their home for care (see point b of the Declaration).

[38] Based on the Declaration of the Lanzarote Committee on protecting children in out-of-home care from sexual exploitation and sexual abuse, point 6.

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (13.b Yes)

The Criminal Code prescribes a criminal offence Failure to report the committed criminal offence (Article 302 of the Criminal Code). Whoever knows that a criminal offense punishable by ten years of imprisonment or by a heavier penalty has been committed and does not report it, even though he knows that such a report would enable or significantly facilitate the detection of the offense or the perpetrator, shall be punished by imprisonment for up to three years (Article 302 Paragraph 1 of the Criminal Code). The same punishment shall be imposed on an official or responsible person who does not report the commission of a criminal offense of which he became aware while performing his duty, and it is a criminal offense for which the criminal proceedings are not initiated by private lawsuit or by proposal for prosecution (Article 302 Paragraph 2 of the Criminal Code). The perpetrator of the criminal offense referred to in Article 302 Paragraph 2 of the Criminal Code shall not be punished with a punishment more severe than that prescribed for the criminal offense that he did not report.

There is no criminal offense referred to in Article 302 Paragraph 1 of the Criminal Code when its legal characteristics are realized by a person who is married or who lives in an extramarital union or in cohabitation or in informal cohabitation with a person who has committed the unreported criminal offense or is related to that person by blood in straight line, as brother or sister, as adopter or adoptee, unless the criminal offense was committed against a child. There is no criminal offense referred to in Article 302 Paragraphs 1 and 2 of the Criminal Code when its legal characteristics are realized by a religious confessor or a person who is obliged to keep a secret according to the law.

Here you can upload any file(s) in support of your answer

c. ensure that legal persons failing to protect children in their care from sexual abuse are held liable?^[39] Please provide details.

[39] *Ibid.*, see point 7.

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (13.c Yes)

The Act on Liability of Legal Persons for Criminal Offences (Official Gazette, nos. 151/03, 110/07, 45/11, 143 /12, 114/22; hereinafter: the CLL) prescribes the conditions of criminal liability of legal persons for criminal

offences prescribed by Criminal Code (including criminal offences of child sexual abuse and exploitation) and other Acts which prescribe criminal offences (Article 3 Paragraph 2 of the CLL). Article 3 Paragraph 1 of the CLL prescribes that a legal person shall be punished for the criminal offense of the responsible person if thereby a duty of that legal person is violated or if the legal person thereby obtained or should have obtained an illegal material benefit for himself or another.

The responsible person within the meaning of the CLL is the physical person who runs the business of the legal person or to whom the performance of work from the area of operations of the legal person has been entrusted. (Article 4 of the CLL)

The liability of the legal person is founded on the guilt of the responsible person. The legal person shall be punished for a criminal offence committed by the responsible person even if the existence is established of legal or material hindrances for establishing the liability of the responsible person. (Article 5 of the CLL)

The Draft Act on Amendments to the CLL is currently undergoing the prescribed legislative procedure and it is expected to be enacted by October 2023. It shall encompass the extension of basis for the criminal liability of legal persons, clarification of the definition of the responsible person and amendments regarding the amount of fines prescribed for the legal persons with a view of improving their effectiveness by prescribing more severe minimum and maximum amounts of fine and a possibility to determine a fine as a percentage of total annual revenue of the legal person in the business year preceding the fining decision.

Here you can upload any file(s) in support of your answer

SPECIAL REPRESENTATIVES Question 15. How does your national legal framework ensure that special representatives and guardians ad litem who are appointed to avoid a conflict of interest between the holders of parental authority and the child victim:

- a. [receive appropriate training and legal knowledge to ensure and safeguard the best interests of the child victim during criminal investigations and proceedings?](#)^[40]

[40] 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 35

In the Republic of Croatia, there is a Center for Special Custody which, based on public authority, represents children before the courts and other bodies in accordance with the law governing family relations through an appointed guardian. Professional work in the center for special guardianship is performed by jurists who have passed the bar exam, as well as social workers, psychologists, and social pedagogues. Professional workers must have at least three years of experience in their respective fields. Furthermore, a lawyer who has passed the bar exam must have education in the field of protecting the rights of children and adults in proceedings before courts and other bodies prescribed by the law regulating family relations, as well as the professional knowledge and skills necessary for communication with children. Social workers, psychologists and social pedagogues must have three years of work experience in the field of working with children and/or adults and additional professional knowledge, skills and competences necessary for communication and obtaining the opinions of children and adults.

Education for professional workers is organized within the framework of the system and is conducted by renowned professors and experts in the field of psychology, social work etc.. In accordance with the new

Social Welfare Act, the establishment of the Social Welfare Academy is in progress, which will organize and implement professional training for special guardians and other professional workers of the Center for Special Guardianship.

Here you can upload any file(s) in support of your answer

b. [avoid combining the functions of a lawyer and guardian ad litem in one person?](#)^[41]

[41] Ibid., Recommendation 36

According to Article 53, paragraph 1 of the Criminal Procedure Act, if the injured party is a child, and the interests of the child conflicts with the interests of the parents, the authority conducting the proceedings will invite the competent social welfare authority to appoint a guardian for the child. Furthermore, if a child doesn't have elected lawyer to protect his rights and interest in process, according to Article 116 paragraph 1 and 2 of the Juvenile Courts Act if the juvenile investigation judge, or the president of the juvenile council determines that it is necessary to appoint an attorney for him, he will submit a proposal to the president of the court that will appoint the attorney. In case of criminal offences for which a prison sentence of five years or more is prescribed, as when the perpetrator of criminal offenses against sexual freedom and criminal offenses against sexual abuse and exploitation of a child is a relative prescribed by law, the court will appoint a representative ex officio.

Our national legislation stipulates that in court proceedings a special guardian is appointed for the child who will represent his rights and interests. A special guardian is appointed from the Center for Special Guardianship, so he is not a lawyer. The special guardian is the child's representative. The Family Law stipulates that for the protection of certain personal and property rights, the Institute for Social Work or the court will appoint a special guardian for the child.

Here you can upload any file(s) in support of your answer

c. [are provided free of charge for the child victim?](#)^[42]

[42] Ibid., Recommendation 37

According to Article 44 of the Criminal Procedure Act, a child as a victim of a criminal offense has, in addition to the rights that belong to the victim in accordance with the aforementioned article and other provisions of the Act, also the right to an attorney at the expense of budget funds. Considering that according to Article 43. a paragraph 1 of the Criminal Procedure Act, it is presumed that there is a need for the application of special protection measures, therefore, in addition to other rights that belong to child under the Act, the child has the right to speak with a counselor before the examination, at the expense of budget funds.

Here you can upload any file(s) in support of your answer

SPECIAL REPRESENTATIVES Question 16. [for 22 Parties + Malta]

a. Do you appoint a special representative or guardian ad litem when there is a conflict of interest between the holders of parental authority and a child?^[43] Please provide details.

[43] *Ibid.*, Recommendation 34

- Yes
 No

Here you can upload any file(s) in support of your answer

b. Is this person allowed to be present throughout the criminal proceedings?^[44] Please provide details.

[44] *Ibid*

- Yes
 No

Here you can upload any file(s) in support of your answer

SUPPORT FOR CHILD VICTIMS IN INVESTIGATIVE AND JUDICIAL PROCEEDINGS Question 17. In investigative and judicial proceedings how does your national legal framework ensure that:

a. protection measures are available to all children irrespective of their age?^[45] Please provide details.

[45] *Ibid.*, Recommendation 38

Article 98 of the Criminal Procedure Act prescribes precautionary measures that can be imposed in cases where there are circumstances that make it possible to order pre-trial detention or that detention has already been determined, and the same purpose can be achieved by a precautionary measure. Precautionary measures are: a ban on leaving the place of residence, a ban on visiting a certain place or area, a ban on approaching a certain person, a ban on establishing or maintaining a relationship with a certain person, a ban on stalking or harassing the victim or another person, and removal from the home. Although the prescribed precautionary measures can only be imposed on the perpetrator, such imposed measures, which can be ordered before and during the criminal procedure until the legal end of the criminal procedure, and their need is reviewed every two months, indirectly ensure the protection and safety of the child, regardless of his age, during for the entire duration of the procedure.

Here you can upload any file(s) in support of your answer

b. specificities of sexual abuse committed in respect of a child by someone in a recognised position of trust, authority or influence are taken into account in the measures and procedures applied during criminal investigations and proceedings in order not to aggravate the trauma experienced by the child?^[46] Please provide details.

[46] *Ibid.*, Recommendation 39

Among the important institutes for victims that emphasize the need for an individual approach to each victim is the implementation of an individual victim assessment. The assessment enables effective identification of the risk of secondary victimization, intimidation and retaliation by the perpetrator during the criminal procedure. The authorities conducting the investigation must ensure the implementation of an individual assessment of the victim in order to determine the special needs of protection and the extent to which they would be useful, with the fact that in the case where the victim is a child, the need for such measures is presumed in view of their vulnerability. Article 43 a of the Criminal Procedure Act states that before examining the victim, the body conducting the examination in cooperation with other bodies, organizations or institutions for assistance and support to victims of criminal offenses will conduct an individual assessment of the victim. The individual assessment of the victim includes determining whether there is a need to apply special protection measures in relation to the victim and, if so, what special protection measures should be applied, for example a special way of questioning the victim, the use of communication technologies to avoid visual contact with the perpetrator, and other measures prescribed by law. When undertaking an individual assessment of the victim, the personal characteristics of the victim, the type or nature of the criminal offense and the circumstances of the commission of the criminal offense are particularly taken into account. In doing so, special attention is paid to victims who suffered significant damage due to the severity of the crime, victims of a crime committed because of some personal characteristic of the victim, and victims whose relationship with the perpetrator makes them particularly vulnerable. In this sense, the individual assessment of the victim includes especially gender-based violence, violence in close relationships, sexual violence and sexual exploitation.

Rulebook on the method of conducting individual victim assessment (Official Gazette, no. 106/2017) that entered into force in October 2017 prescribes the conditions and method for making an individual assessment of the needs of victims of criminal offenses for protection and support, the mandatory contents included in the assessment and the data on which the assessment of needs is based. The Rulebook prescribes the minimum requirements that must be met when assessing the needs for the application of special protection measures in relation to victims, but does not affect the application of other recognized ways and methods of assessment of needs (for example expert examination).

The assessment of the victim's needs is carried out by all bodies of the preliminary and criminal proceedings (police officers, state attorneys and judges) who come into contact with the victim, starting from the investigation and ending with the legal conclusion of the criminal proceedings, in accordance with the provisions of the Rulebook.

In order to avoid additionally traumatising the child in situations where the perpetrator is a person of trust, authority or influence, the police pay special attention to whether or not the child wishes to have another person, in addition to the expert member of staff from the Institute for Social Work, present at the interview and throughout the procedure, who is not the abuser and who is a person of trust, and who can make the child feel safe and supported. During police procedures, measures are taken to ensure that the child victims and the perpetrators do not come into contact. Children are interviewed by specially trained police officers for youth in child-friendly interview rooms. During the individual assessment of victim's needs particular attention is paid to providing adequate psychological and other expert assistance, assisting support services, and later on in the criminal procedure conducting interviews with the use of communication technologies so as to avoid any encounters with the perpetrator.

Here you can upload any file(s) in support of your answer

c. a child who is a presumed victim of sexual abuse is supported by a professional trained to safeguard children's psychological well-being?^[47] Please provide details.

[47] Based on *N.Ç. v. Türkiye* (no. 40591/11), 9 February 2021

The Criminal Procedure Act prescribes various rights that belong to the victims of criminal acts during the criminal procedure and are specifically contained in Art. 43 - 50 of the Act.

With the so-called general rights that belong to every victim of all criminal offences, the rights that can be exercised for the victim of individual criminal offences, which are a consequence of the sensitivity and specificity of the position of the victim of individual criminal offences, are also classified. Thus, Article 43, among other, prescribes the general and fundamental rights that belong to every victim of a criminal offense: 1) easily accessible, confidential and free access to services to support victims of criminal offences, 2) the right to effective psychological and other professional help and support from a body, organization or institution to help victims of criminal offenses in accordance with the law.

Article 44, paragraph 1 of the Act prescribes additional and special rights of victims, in addition to the general rights of victims in case a child is a victim of a criminal offense, so the child as a victim of a criminal offense has the right to: 1) an attorney at the expense of budget funds, 2) secrecy of personal data, 3) exclusion of the public. Furthermore, paragraphs 3 and 5 of the aforementioned article stipulate that a victim of a criminal offense against sexual freedom, or a child victim according to which special protection needs have been determined in accordance with the Law has the right to: 1) speak with a counselor before the examination, at the expense of budget funds, 2) an attorney at the expense of budget funds, 3) be questioned by a person of the same gender in the police and the state attorney's office and, if possible, to be questioned by the same person in the case of re-examination, 4) withhold answers to questions that are not related to the criminal offense and that refer to the strictly personal life of the victim, 5) demand that she be questioned via audio-video devices, 6) the confidentiality of personal data, 7) to demand that the public be excluded from court hearing.

In this regard, Article 292, paragraphs 1 and 2 of the Criminal Procedure Act prescribes that the examination of a child under the age of fourteen as a witness shall be conducted by the investigating judge. The examination is conducted without the presence of the judge and the parties in the room where the child is, through audio-video devices operated by a professional assistant. The examination is carried out with the help of a psychologist, pedagogue or other professional person, and unless it is against the interests of the procedure or the child, the examination is attended by a parent or guardian. The parties may ask questions to the child-witness with the approval of the investigating judge through an expert. The examination will be recorded with an audio-video recording device, and the recording will be sealed and attached to the court record. The child can only be re-examined exceptionally, and in the same way. Furthermore, the questioning of a child over the age of fourteen and under the age of eighteen as a witness is conducted by the investigating judge. When questioning a child, especially if he has been harmed by a criminal act, care will be taken to ensure that the questioning does not adversely affect the child's mental state. Depending on the circumstances, especially taking into account the protection of the child, the examination can be conducted in such a way that it is recorded with an audio-video device in the manner described earlier.

Here you can upload any file(s) in support of your answer

SUPPORT FOR CHILD VICTIMS IN INVESTIGATIVE AND JUDICIAL PROCEEDINGS Question 18.

Since the adoption of the 1st implementation report in the 1st monitoring round in 2015, has your national legal framework been amended to ensure that the justice system accommodates more fully the specificities attached to the participation of children as victims in proceedings and not solely as perpetrators of criminal offences?^[48] Please provide details.

[48] 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 40

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (18 Yes)

Amendments to the Criminal Procedure Act on 2008 introduced the concept of the victim as an independent procedural subject with associated rights different from the rights of the injured party into the criminal procedure, which created a normative basis in the national legislation for the construction of a victim-oriented criminal justice system. Amendments to criminal legislation from 2017 (seventh amendment of Criminal procedure Act, Official Gazette, number 70/17 entered into force on July 19, 2017) are the result of the need to transfer and harmonize with Directive 2012/29/EU of the European Parliament and of the Council from October 25, 2012 on the establishment of minimum standards for the rights, support and protection of victims of criminal offenses and on the replacement of the Council's Framework Decision 2001/220/PUP in the national legislation.

These changes created an adequate normative basis for victim support, which enables minimum guarantees for victims in criminal proceedings with an emphasis on the specific needs of the victim and with careful protection against secondary victimization.

On October 20, 2022, the Republic of Croatia submitted to the European Commission a request for technical support with the aim of securing financial resources for the establishment of the Barnahus model in the Republic of Croatia . The Department for Criminal Law Regulations participated in the application of the project. After the meetings were held with representatives of the Commission and the Council of Europe at the technical level, a kick-off meeting at the technical level is planned for the beginning of September 2023.

Here you can upload any file(s) in support of your answer

INVESTIGATION Question 19. In the investigation phase:

In 2023 the Steering Committee for the Rights of the Child (CDENF) circulated a questionnaire in the framework of its mapping study of the implementation and development of Barnahus model in Europe. Should your authorities have responded to this questionnaire, you may reiterate those replies and complete as need be.

a. [are interviews of child victims arranged in a child-friendly setting separate from the usual premises where investigations and interviews are conducted \(such as police, hospital or court premises\), and are such settings provided throughout your territory?](#)^[49] Please provide details.

[49] *Ibid.*, Recommendation 41

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (19.a Yes)

According to Article 292, Paragraphs 1 and 2 of the Criminal Procedure Act, the examination of a child under the age of fourteen as a witness is conducted by the investigating judge. The examination is conducted without the presence of the judge and the parties in the room where the child is, through audio-video devices operated by a professional assistant. The examination is carried out with the help of a psychologist, pedagogue or other professional person, and unless it is against the interests of the procedure or the child, the examination is attended by a parent or guardian. The parties may ask questions to the child-witness with the approval of the investigating judge through an expert. The examination will be recorded with an audio-video recording device, and the recording will be sealed and attached to the court record. The child can only be re-examined exceptionally, and in the same way. Furthermore, the questioning of a child over the age of fourteen and under the age of eighteen as a witness is conducted by the investigating judge. When questioning a child, especially if he has been harmed by a criminal act, care will be taken to ensure that the questioning does not adversely affect the child's mental state. Depending on the circumstances, especially taking into account the protection of the child, the examination can be conducted in such a way that it is recorded with an audio-video device in the manner described earlier.

Police officers interview child victims on official premises in rooms that have been specially equipped and furnished for children. They may also interview the child at home, in the competent regional offices of the Institute for Social Work, or, when possible, in healthcare institutions or other institutions that specialise in working with children such as the Polyclinic for the Protection of Children and Youth of the City of Zagreb. Being aware of the need to ensure equal conditions for children throughout Croatia, the Ministry of the Interior sent a letter to the Ministry of Justice and Public Administration proposing an initiative for building /establishing 5 regional centres for the protection of child victims, primarily victims of sexual abuse and exploitation and highly traumatised children which would employ a team of experts (police officers for youth, child psychologists, psychiatrists, gynaecologists/urologists, paediatricians, social workers) who would work with the victims in a single location, so as not to further aggravate the trauma experienced by the victims and to provide them with adequate assistance and support.

Here you can upload any file(s) in support of your answer

b. [are all staff responsible for interviewing child victims required to undergo suitable qualifying training?](#)^[50] Please provide details.

[50] *Ibid.*, Recommendation 42

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (19.b Yes)

According to Article 38 of the Juvenile Courts Act juvenile judges and state attorneys for juveniles must have a strong preference for the upbringing, needs and advancements of young people and have basic knowledge in the fields of criminology, social pedagogy, youth psychology and social work for young people. Interview with a child victim by an investigative juvenile judge via audio-video link (Article 292 of the Criminal Procedure Act) involves the assistance of a psychologist, pedagogue or another expert. According to Ordinance on the work of expert associates of non-legal profession in the field of youth delinquency and criminal protection of children in state attorney's offices and courts (Official Gazette, no. 22/13) expert associates of the non-legal profession in state attorneys' offices and courts are persons who have completed university graduate studies in social pedagogy, social work or psychology.

According to Article 116 of the Juvenile Courts Act, attorney of the child victim appointed by the court shall be from the ranks of lawyers who must have a strong preference for the upbringing, needs and advancement of young people and have basic knowledge in the fields of criminology, social pedagogy, youth psychology and social work for young people, who are listed as youth lawyers at the Croatian Bar Association. Such appointed lawyer cannot be replaced by a trainee lawyer.

In 2021, in cooperation with the UNICEF Office in Croatia, the Judicial Academy (JA) has developed a comprehensive curriculum for the training of judges, prosecutors and judicial advisors, as well as non-legal professionals working with children in the judiciary. The curriculum includes the basic training programme for all groups of judicial officials working with children, as well as a separate, specialised training programme for the training of judges of investigation, a specialised basic and advanced training programme for the training of juvenile court judges, specialised basic and advanced training programmes of prosecutors and specialised basic and advanced training programmes for the training of non-legal professionals working with children in judicial proceedings. Based on these training programmes, the Judicial Academy has been organising training activities, either online or face to face for two years now. According to the information available to the Judicial Academy, there is no special provision in the legislation prescribing the obligation of the staff responsible for the interviewing child victims to undergo suitable qualifying training. The JA is not in charge of training the police staff.

Traumatised children are interviewed in child-friendly interview rooms by police officers for youth. All police officers for youth are required to undergo a 7-week specialist training. After successfully passing their exam, they obtain a certificate for police officers for youth. The following 1-week module is a mandatory part of the training: Interviewing children according to the PEACE model, which is also used by police services of other countries.

In addition to the modules in specialised training, the Police Academy also holds advanced training for interviewing children thus ensuring continuous professional development and an increased level of expertise in specialised police officers for youth.

Here you can upload any file(s) in support of your answer

c. [does your national legal framework require that interviews with child victims are conducted as soon as possible after the offence, that their duration and number are limited, and that in their organisation account is taken of the child's age and attention span?](#)^[51] Please provide details.

[51] *Ibid.*, Recommendation 43

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (19.c Yes)

Article 115 paragraph 1 of the Juvenile Courts Act prescribes the procedure to be followed when the police finds out that a criminal offense has been committed to the detriment of a child from the catalog of criminal act, which also includes criminal offenses prescribed by the Criminal Code from Chapters XVI and XVII of the Criminal Code, will immediately inform the juvenile state attorney. The competent state attorney shall, no later than three days from the entry of the criminal report in the register of criminal reports for criminal offenses against sexual freedom, criminal offenses against sexual abuse and child exploitation, and criminal offenses against marriage, family and children, submit a proposal to the juvenile investigation judge for holding an evidentiary hearing, in order to examine the child as a witness.

Also, according to Article 43, paragraph 1 point 5 of the Criminal Procedure Act, every victim of a criminal offense has the right to be heard without undue delay after the filing of a criminal report, and that further hearings are conducted only to the extent that this is necessary for the purposes of the criminal procedure. Article 44, paragraph 2 of the Criminal Procedure Act it is stipulated that the court, the state attorney's office, the investigator and the police are obliged to treat the child as a victim of a criminal act with special needs, bearing in mind age, personality and other circumstances in order to avoid harmful consequences for the upbringing and development of the child, and the treatment of the child victim by the competent authorities will primarily be guided by the best interest of the child. In this regard, see the answer to question 17.c in the part that refers to the examination of a child under Article 292, paragraphs 1 and 2 of the Act.

Here you can upload any file(s) in support of your answer

d. **[for Serbia] how do you ensure that child victims of sexual abuse by someone in a recognised position of trust, authority or influence are not repeatedly interviewed during the proceedings?**^[52]

[52] *Ibid.*, Recommendation 54

Here you can upload any file(s) in support of your answer

e. **where it is indispensable to interview the child victim more than once, does your national legal framework require that the interviews should, if possible and where appropriate, be conducted by the same person and under the same material conditions as the first?**^[53] Please provide details.

[53] *Ibid.*, Recommendation 44

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (19.e Yes)

According to Article 44, paragraph 5, point 2 of the Criminal Procedure Act, it is prescribed that a victim in relation to whom special protection needs have been determined in accordance with Article 43a. of the Act (and in the case of a child, the application of special protection measures is presumed), in addition to the general rights that belong to the victim in accordance with the law, he has the right to be questioned by a person of the same gender in the police and state attorney's office and, if possible, to be questioned by that the same person in case of re-examination.

Here you can upload any file(s) in support of your answer

f. [does your national legal framework offer criminal defence the possibility to contest a child's disclosure during the interview through questions, thus obviating the need for the child to be present in the court room during the proceedings?](#)^[54] Please provide details.

[54] *Ibid.*, Recommendation 45

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (19.f Yes)

According to Article 292, Paragraphs 1 and 2 of the Criminal Procedure Act, the examination of a child under the age of fourteen as a witness is conducted by the investigating judge. The examination is conducted without the presence of the judge and the parties in the room where the child is, through audio-video devices operated by a professional assistant. The examination is carried out with the help of a psychologist, pedagogue or other professional person, and unless it is against the interests of the procedure or the child, the examination is attended by a parent or guardian. The parties may ask questions to the child-witness with the approval of the investigating judge through an expert. The examination will be recorded with an audio-video recording device, and the recording will be sealed and attached to the record. The child can only be re-examined exceptionally, and in the same way. Furthermore, the questioning of a child over the age of fourteen and under the age of eighteen as a witness is conducted by the investigating judge. When questioning a child, especially if he has been harmed by a criminal act, care will be taken to ensure that the questioning does not adversely affect the child's mental state. Depending on the circumstances, especially taking into account the protection of the child, the examination can be conducted in such a way that it is recorded with an audio-video device in the manner described earlier.

Here you can upload any file(s) in support of your answer

JUDICIAL PROCEEDINGS Question 20. In the judicial proceedings:

In 2023 the Steering Committee for the Rights of the Child (CDEF) circulated a questionnaire in the framework of its mapping study of the implementation and development of Barnahus model in Europe. Should your authorities have responded to this questionnaire, you may reiterate those replies and complete as need be.

a. **is systematic use of video equipment made in order to record interviews of child victims or enable him or her to testify remotely during the proceedings?**^[55] Please provide details.

[55] *Ibid.*, Recommendation 46

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.a Yes)

According to Article 292, paragraph 1 of the Criminal Procedure Act, the examination of the child will be recorded by an audio-video recording device, and the recording will be sealed and attached to the court record. The child can only be re-examined exceptionally, and in the same way. Furthermore, according to Article 115, paragraph 4 and 5 of the Juvenile Courts Law, when a child is examined as a witness for a criminal offense from the catalog of criminal offences prescribed by law, which also include criminal offenses prescribed by the Criminal Code from Chapters XVI and XVII of the Criminal Code, recording of the interrogation will always be reproduced on the court hearing, and the judge can order a transcript of the recorded statement, which becomes an integral part of the interrogation record. When it comes to crimes against sexual freedom and crimes against sexual abuse and exploitation of a child, the recording of the interrogation will always be transcribed.

Here you can upload any file(s) in support of your answer

b. **does your national legal framework make an exception in the requirement to be physically present at court hearings for child victims of sexual abuse, including when they are giving evidence?**^[56] Please provide details.

[56] *Ibid.*, Recommendation 59

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.b Yes)

Please look the answer to question 19. F.

Here you can upload any file(s) in support of your answer

c. [is there any difference in the scope of the application of this requirement based on the child's age?](#)^[57]

Please provide details.

[57] *Ibid.*, Recommendation 60

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.c Yes)

According to Article 115, Paragraph 2 of the Juvenile Court's Law, if a child injured by a criminal offense from Article 113 of the Law (which prescribes the criminal offenses of the criminal protection of children, which also include criminal offenses from Chapters XVI and XVII of the Criminal Code) is examined as a witness, who at the time of questioning has not reached the age of sixteen, such questioning will always be conducted according to the provisions of the Criminal Procedure Act on questioning a child as a witness (Article 292 paragraph 1 of the Criminal Procedure Act). In this regard, Article 292, paragraphs 1 and 2 of the Criminal Procedure Act prescribes in more detail that the examination of a child who has not reached the age of fourteen as a witness will be conducted by the investigating judge, the examination will be conducted without the presence of the judge and the parties in the room where the child is situated, through audio-video devices handled by a professional assistant, while in the case of an examination of a child aged fourteen and under eighteen as a witness, the judge conducts the investigation and the examination can be conducted by recording it with an audio-video device in the manner described earlier.

Here you can upload any file(s) in support of your answer

d. [are video recordings of interviews of child victims regarded as admissible evidence?](#)^[58] Please provide details.

[58] *Ibid.*, Recommendation 47

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.d Yes)

Video recordings of child interviews are admissible evidence. Please look answer under point 20. a.

Here you can upload any file(s) in support of your answer

e. [what measures do you take to guard against any further contact between a child victim of sexual abuse by someone in a recognised position of trust, authority or influence and a presumed offender during the criminal proceedings?](#)^[59]

[59] *Ibid.*, Recommendation 48

Please look answer under point 19. f.

Here you can upload any file(s) in support of your answer

f. [does your national legal framework allow taking the child's testimony without the presumed offender being present?](#)^[60] Please provide details.

[60] *Ibid*

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.f Yes)

Please see previous answers regarding child's testimony (Article no. 292. Paragraph 1. and 2).

Here you can upload any file(s) in support of your answer

g. [how do you ensure that face-to-face confrontation with the defendant during the proceedings does not take place?](#)^[61]

[61] *Ibid*

Please see previous answers regarding child's testimony (Article no. 292. Paragraph 1. and 2).

Here you can upload any file(s) in support of your answer

h. [what measures do you take to prevent violation of the child victims' right to privacy by the media through disclosure or publication of personal information or data?](#)^[62]

[62] *Ibid.*, Recommendation 49

Article 44 Paragraph 1 of the Criminal Procedure Act prescribes that a child as a victim of a criminal offense has, in addition to other rights granted to victims by the Law, the right to:

- 1) legal representative at the expense of budget funds,
- 2) secrecy of personal data,
- 3) exclusion of the public.

Furthermore, Article 388, paragraph 1, points 1 and 2 of the Criminal Procedure Act stipulates that the court panel will exclude the public for the entire hearing or part of it for the protection of a person under the age of eighteen and at the request of a victim of a criminal offense against sexual freedom, during her questioning

as a witness.

Here you can upload any file(s) in support of your answer

i. [does your national legal framework provide for free legal aid to child victims of sexual abuse by someone in a recognised position of trust, authority or influence under the same or more lenient conditions as that available to adults?](#)^[63] Please provide details.

[63] *Ibid.*, Recommendation 50

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.i Yes)

Regarding free legal aid, the Criminal Procedure Act prescribes in Article 44 Paragraph 1 Item 1 that a child victim of any criminal offence has a right to lawyer at the expense of budget funds, meaning free of charge for that victim. Free legal aid is available for child victims under more lenient conditions in comparison to adult victims (regarding adult victims only victims of trafficking in human beings and victims of criminal offences against sexual freedom are entitled to lawyer at the expense of budget funds).

Here you can upload any file(s) in support of your answer

j. [does your national legal framework grant to child victims of sexual abuse by someone in a recognised position of trust, authority or influence the right to be represented in their own name by a lawyer trained in the relevant matters?](#)^[64] Please provide details.

[64] *Ibid.*, Recommendation 51

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.j Yes)

There are no legal obstacles for a child victim of sexual abuse to have elected lawyer in criminal procedure.

Here you can upload any file(s) in support of your answer

k. what assistance, if any, do you provide to child victims of sexual abuse by someone in a recognised position of trust, authority or influence, once a criminal justice decision has been taken?^[65]

[65] *Ibid.*, Recommendation 52

Long-term health care for child victims of sexual abuse is provided in the Republic of Croatia. The child victim of abuse and/or neglect is provided with comprehensive health care in accordance with modern standards and practice, with the aim of preserving physical and mental health, as well as rehabilitation of injuries and psychological trauma, regardless of when sexual violence was committed. Health care, including mental health care in the Republic of Croatia, is provided at all levels of health care service – at the primary, secondary and tertiary levels, as well as at the level of health care institutions.

Interdepartmental cooperation between the departments of health, police, social welfare, justice and education is ensured and implemented in accordance with the relevant regulations

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